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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,478	12/21/2001	James B. Melesky	13811	4450

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EXAMINER
TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/024,478	MELESKY, JAMES B.	
	Examiner	Art Unit	
	Phi D A	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Specification

1. The disclosure is objected to because of the following informalities: page 13 line 8 "Fig. 2" is improper. Should it be " 2A"?

Appropriate correction is required.

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Lines 1-4 " Covers....access opening." has improper sentence structure. It is lacking a verb.

Lines 4-5 " In some embodiments a closure member" is improper. Should it be " In some embodiments, a closure member"?

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 14 line 3 " 41A". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 8-9 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The limitations of claims 8-9 are already claimed in claims 5-6, which claims 8-9 depended upon.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helbig (4312423) in view of Bogner et al (4361613).

Helbig (figure 7) shows an insulating cover comprises a closure member (28) formed of a free standing insulating material and including a body portion (24) and opposing side and end walls, the closure member (28) being configured such that said closure member seats and creates a continuous seal about the access opening (between parts 26) when positioned in covering relationship with respect to the access opening, the closure member including a depending central body portion (24) of a size to fit at least partially within the access opening and frictionally engage a frame (26) defining the access opening, the closure member including outer

flange portions (vertical parts of part 28) for seating against an upper edge defined by the frame (26) defining the access opening, the insulating material of the closure member being an expanded polymeric material (col 3 line 6-8) .

Helbig does not disclose the closure member being sealed with a plastic layer coated with a fire retardant material.

Bogner et al (abstract lines 6-8) discloses a lightweight insulating panel formed of an insulating core being sealed with a plastic layer (col 5 lines 36-41) coated with a fire retardant material to provide the fire retardant property to an insulating panel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Helbig to show the closure member being sealed with a plastic layer coated with a fire retardant material as taught by Bogner et al because it would enhance the closure member against fire, and the fire retardant property is desired as the closure member is subjected to high temperature at times.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helbig (4312423) in view of Bogner et al (4361613) as applied to claim 3 above, and further in view of Mariano et al (4550534) and Cameron (4469087).

Helbig as modified shows all the claimed limitations except for at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted to an insert member formed of a material which is more rigid than the expanded polymeric material, the insert member being keyed into the body portion.

Mariano et al shows at least one handle (32) secured to the closure member (10) to facilitate maneuvering, the at least one handle being mounted to an insert member (28),the insert member being keyed into the body portion to enable opening and closing of the closure member.

Cameron shows a handle (52) being mounted to a member (54), which is more rigid than the insulation material (the part covered by part 18) to act as a supporting surface for the moving handle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Helbig's modified structure to show at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted to an insert member formed of a material which is more rigid than the expanded polymeric material, the insert member being keyed into the body portion because having a handle being mounted to an insert member in the body would enable the opening and closing of the closure as taught by Mariano et al, and having the insert made of a material more rigid than the expanded polymeric material would ensure the proper functioning of the handle as the more rigid material would be able to better handle the different force application due to the movement of the handle associated with the opening and closing of the closure.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helbig (4312423) in view of Bogner et al (4361613) as applied to claim 5 above, and further in view of Mariano et al (4550534) and Cameron (4469087).

Helbig as modified shows all the claimed limitations except for at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted

to an insert member formed of a material which is more rigid than the expanded polymeric material, the insert member being keyed into the body portion.

Mariano et al shows at least one handle (32) secured to the closure member (10) to facilitate maneuvering, the at least one handle being mounted to an insert member (28), the insert member being keyed into the body portion to enable opening and closing of the closure member.

Cameron shows a handle (52) being mounted to a member (54), which is more rigid than the insulation material (the part covered by part 18) to act as a supporting surface for the moving handle.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Helbig's modified structure to show at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted to an insert member formed of a material which is more rigid than the expanded polymeric material, the insert member being keyed into the body portion because having a handle being mounted to an insert member in the body would enable the opening and closing of the closure as taught by Mariano et al, and having the insert made of a material more rigid than the expanded polymeric material would ensure the proper functioning of the handle as the more rigid material would be able to better handle the different force application due to the movement of the handle associated with the opening and closing of the closure.

5. Claims 1, 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller (4281743) in view of Bogner et al (4361613), Mariano et al (4550534), Cameron (4469087), and Porter (5628158).

Fuller shows an insulating cover (10) comprising a closure member formed of a free standing insulating material and including a body portion (the part that overly) the opening and opposing sides and end walls, the closure member being configured such that the closure member seats and creates a continuous seal about the access opening when positioned in covering relationship with respect to the access opening, the insulating material of the closure member being an expanded polymeric material (col 4 lines 58-60), the closure member including at least first and second components (52, 53a, 54, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, means for securing the opposing edges in interfitted relationship.

Fuller does not show the closure being sealed with a plastic layer coated with a fire retardant material, at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted to an insert member formed of a material which is more rigid than the expanded polymeric material and the insert being keyed into the body portion, the means being adhesive.

Mariano et al shows at least one handle (32) secured to the closure member (10) to facilitate maneuvering, the at least one handle being mounted to an insert member (28),the insert member being keyed into the body portion to enable opening and closing of the closure member.

Cameron shows a handle (52) being mounted to a member (54), which is more rigid than the insulation material (the part covered by part 18) to act as a supporting surface for the moving handle.

Bogner et al (abstract lines 6-8) discloses a lightweight insulating panel formed of an insulating core being sealed with a plastic layer (col 5 lines 36-41) coated with a fire retardant material to provide the fire retardant property to an insulating panel.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fuller to show the closure being sealed with a plastic layer coated with a fire retardant material, at least one handle secured to the closure member to facilitate maneuvering, the at least one handle being mounted to an insert member formed of a material which is more rigid than the expanded polymeric material and the insert being keyed into the body portion, the means being adhesive because having a handle being mounted to an insert member in the body would enable the opening and closing of the closure as taught by Mariano et al, and having the insert made of a material more rigid than the expanded polymeric material would ensure the proper functioning of the handle as the more rigid material would be able to better handle the different force application due to the movement of the handle associated with the opening and closing of the closure, having a layer of plastic film coated with a fire retardant material on the closure would enhance the closure member against fire, and the fire retardant property is desired as the closure member is subjected to high temperature at times, and having adhesive means to join the components together would ensure the proper securing of the components together at assembly as taught by Porter.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller (4281743) in view of Bogner et al (4361613) and Porter (5628158).

Fuller shows an insulating cover (10) comprising a closure member formed of a free standing insulating material and including a body portion (the part that overly) the opening and opposing sides and end walls, the closure member being configured such that the closure member seats and creates a continuous seal about the access opening when positioned in covering relationship with respect to the access opening, the closure member including at least first and second components (52, 53a, 54, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, means for securing the opposing edges in interfitted relationship.

Fuller does not show the closure being sealed with a plastic layer coated with a fire retardant material, the means being adhesive.

Bogner et al (abstract lines 6-8) discloses a lightweight insulating panel formed of an insulating core being sealed with a plastic layer (col 5 lines 36-41) coated with a fire retardant material to provide the fire retardant property to an insulating panel.

Porter discloses adhesive means joining panel edges together to ensure securing the panels together at assembly.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fuller to show the closure being sealed with a plastic layer coated with a fire retardant material, the means being adhesive because having a layer of plastic film coated with a fire retardant material on the closure would enhance the closure member against fire, and the fire retardant property is desired as the closure member is subjected to high temperature at times, and having adhesive means to join the components together would ensure the proper securing of the components together at assembly as taught by Porter.

7. Claims 1, 5, 10, 12, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciambi et al (4591022) in view of Bogner et al (4361613).

Sciambi et al (figures 1-2) shows an insulating cover for an access opening comprising a closure member (10) formed of a free standing insulating material (44) and including a body portion (the middle of the cover) and opposing side and end walls, the closure member being configured such that the closure member seats and creates a continuous seal about the access opening when positioned in covering relationship with respect to the access opening(formed by parts 26, 24), the closure member being sealed with a plastic layer (42), insulating material of the closure member being an expanded polymeric material (col 4 lines 7-8), a free standing frame (152, 196) formed of an insulating expanded polymeric material and having spaced end walls and side walls, the frame being of a size to generally surround the access opening and being coated with a layer of plastic film (40), the frame (152, 196) defining an opening, at least a portion (the part which lays over the opening) of the closure member being seated within the opening defined by the frame (152, 196) to thereby seal the opening of the frame, the frame including a depending portion (46, figure 2) extending from each of the side and end walls, the depending portions being configured so as to engage against a structural frame (24, 26) defining the access opening.

Sciambi et al does not show the plastic film being coated with a layer of fire retardant material.

Bogner et al (abstract lines 6-8) discloses a lightweight insulating panel formed of an insulating core being sealed with a plastic layer (col 5 lines 36-41) coated with a fire retardant material to provide the fire retardant property to an insulating panel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Sciambi et al to show the closure member coated with a fire retardant material as taught by Bogner et al because it would enhance the closure member against fire, and the fire retardant property is desired as the closure member is subjected to high temperature at times.

8. Claims 15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sciambi et al (4591022) in view of Bogner et al (4361613) as applied to claim 14 above and further in view of Semon (3855741).

Sciambi et al as modified shows all the claimed limitations except for a depending central portion of size to fit within the opening defined by the frame and frictionally engage the side walls and end walls of the frame.

Semon discloses a closure having a depending central portion (the lower steps 20) of size to fit within an opening defined by frame (18) and frictionally engage the side walls and end walls of the frame to provide for a snug fit for the closure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Sciambi et al's modified structure to show a depending central portion of size to fit within the opening defined by the frame and frictionally engage the side walls and end walls of the frame because it would enable a snug between the closure and the frame and it would also enhance the insulation of the structure at the joints between the frame and the frame.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sciambi et al (4591022) in view of Bogner et al (4361613) as applied to claim 14 above and further in view of Fier (4302126).

Sciambi et al as modified shows all the claimed limitations except for the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame being tapered inwardly from an upper surface toward a lower surface of the side and end walls such that said tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

Fier (figure 9) shows a closure (49) having taper ends and side walls (the four quadrants of the diameter) being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame (40) being tapered inwardly from an upper surface toward a lower surface of the side and end walls (the four quadrants of the diameter) such that the tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Sciambi et al's modified structure to show the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame being tapered inwardly from an upper surface toward a lower surface of the side and end walls such that said tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame as taught by Fier because having tapering mating surfaces at joints would ensure a tight fit for the mating parts without resorting to tight manufacturing tolerance and thus resulting in cost saving.

10. Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sciambi et al (4591022) in view of Bogner et al (4361613) as applied to claim 10 above and further in view of Fier (4302126).

Sciambi et al as modified shows all the claimed limitations except for the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame being tapered inwardly from an upper surface toward a lower surface of the side and end walls such that said tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

Fier (figure 9) shows a closure (49) having taper ends and side walls (the four quadrants of the diameter) being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame (40) being tapered inwardly from an upper surface toward a lower surface of the side and end walls (the four quadrants of the diameter) such that the tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Sciambi et al's modified structure to show the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame being tapered inwardly from an upper surface toward a lower surface of the side and end walls such that said tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame as taught by Fier because having tapering mating surfaces at joints would ensure a tight fit for the mating parts without resorting to tight manufacturing tolerance and thus resulting in cost saving.

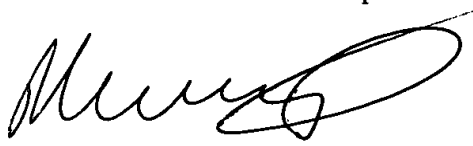
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different covering structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
5/27/03